

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-054320

03/31/2015

COMMISSIONER BRIAN S. REES

CLERK OF THE COURT

T. Pavia

Deputy

M T C FINANCIAL INC

REX C ANDERSON

v.

MARICOPA COUNTY TREASURER

ASHLEY J DEMARTE
1205 E. APACHE BLVD. #108
TEMPE AZ 85281
GREGORY DEMARTE
9909 W. OAKSTONE DR.
SUN CITY AZ 85013
RECREATION CENTERS OF SUN CITY
10626 W. THUNDERBIRD BLVD.
SUN CITY AZ 85351
EST. OF BERNICE H. DEMARTE
9909 W. OAKSTONE DR.
SUN CITY AZ 85013
MARICOPA COUNTY TREASURER
SECRETARY OF HOUSING AND
URBAN DEVELOPME
451 SEVENTH STREET, S.W.
WASHINGTON DC 20410
SECRETARY OF HOUSING AND
URBAN DEVELOPME
FINANCIAL FREEDOM SENIOR FUND
500 N. RIDGE RD. #500
ATLANTA GA 30350

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MINUTE ENTRY

The court has pending an “Application for Release of Excess Proceeds of Sale by Owner.” The court cannot process the claim for two reasons. First, there is no proof that the applicant was the owner of the property at the time of the sale. Second, the applicant has not complied with the notice provisions required under ARS §33-812.

The complaint, per the title history guarantee, indicates that at the time of the Sheriff’s sale Bernice J. Demarte was the titled owner. The mailing list for the complaint shows that she is deceased and that there is an estate with heirs that include the applicant and Gregory Demarte. Therefore, the court will upon filing the appropriate proof, only release the funds pursuant to the probate code. Alternatively, the court needs a final order of appointment with letters of acceptance or some form of an affidavit or other document indicating that there are no other heirs or beneficiaries entitled to the proceeds from the decedent’s estate. See ARS §14-3971 (E). The court believes that such a form may be required by the County Treasurer in order to pick up the funds. The court will accept a copy of that form filed under this case number. Then, the court will only release the funds according to the order or affidavit that the applicant is the Personal Representative for the estate of the deceased trustor, and takes the money in that capacity.

Also, it does not appear that the applicant has complied with the mailing requirements. Once the appropriate applicant is substituted in as the applicant, the application will need to be “re-served,” upon the Treasurer and upon the parties listed in the complaint’s list of parties, particularly numbers 5,6,and 7. Copies of the returned receipts of mailing must be filed with the court. Then the court will wait 45 days from the last date of mailing to release the funds.